

Hon. Ronald Reinstein, Ret.
Chair, Supreme Court Commission
on Victims in the Courts (COVIC)
1501 W. Washington, Phoenix, AZ 85007
602-452-3138

**IN THE SUPREME COURT
OF THE STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND RULE 10.5,
ARIZONA RULES
OF CRIMINAL PROCEDURE

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Supreme Court No. R-08-0022,
COMMENT ON PETITION

Judge Ron Reinstein (Ret.), Chair of the Supreme Court's Commission on Victims in the Courts, respectfully submits this comment on the above-referenced petition to amend Rule 10.5, to the Arizona Rules of Criminal Procedure.

In accordance with the Supreme Court’s directive, the Commission reviewed this rule petition as a noticed agenda item at its May 21, 2010 meeting. Representatives of the Maricopa County Attorney’s Office and the Maricopa County Superior Court also attended and provided updated comments about the rule petition. After discussion, the Commission once again generally supported the apparent intent of the rule (to avoid victim uncertainty in rescheduling new trial dates); however, the Commission believes this issue impacts Maricopa County only. The concern is that the proposed rule would not accomplish the goal of moving cases forward in a timely

manner and to the contrary could inadvertently cause further delay at the victim's expense if enacted as a statewide rule. Furthermore, the rule minimizes the voice of the victim in favor of the interest of the state and defense. Even over objection of the victim, the proposed rule requires not less than a five business day continuance of a trial, unless the state and defense (not the victim) stipulate that the case may be tried sooner.

The Commission unanimously recommends the Supreme Court deny the petition. The Commission further respectfully suggests that if the Court is persuaded that this issue has not been resolved in Maricopa County by the new master calendar program that replaced the case transfer system, that the Court recommend that petitioners, the superior court and other criminal justice system participants, including victim representatives in Maricopa County meet to address this matter through local policy change. The Commission reiterates its prior suggestion that incorporating the language of A.R.S. §13-4409 into the criminal rules may alleviate the petitioners concerns. The Commission believes educating the judicial community and the bar regarding the appropriate use of Rule 39(c) of the Rules of Criminal Procedure, in conjunction with A.R.S. § 13-4409 would likely resolve the concerns from a victim rights perspective.

RESPECTFULLY SUBMITTED this 4th day of June, 2010.

By _____
Hon. Ron Reinstein, Chair,
Commission on Victims in the Courts
1501 W. Washington, Phoenix, AZ 85007
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Copies of the foregoing
have been electronically submitted
this 4th day of June, 2010 to:

Arizona Supreme Court's Staff Attorney's Office